

9/20/77 [1]

Folder Citation: Collection: Office of Staff Secretary; Series: Presidential Files; Folder: 9/20/77
[1]; Container 42

To See Complete Finding Aid:

http://www.jimmycarterlibrary.gov/library/findingaids/Staff_Secretary.pdf

THE PRESIDENT'S SCHEDULE

• Tuesday - September 20, 1977

7:15 Dr. Zbigniew Brzezinski - The Oval Office.

7:45 Mr. Frank Moore - The Oval Office.

8:00 Breakfast with Congressional Leaders.
(60 min.) (Mr. Frank Moore) - First Floor Private Dining Room.

9:30 Meeting with Congressional Delegation/SST-Concorde.
(20 min.) (Mr. Frank Moore) - The Cabinet Room.

10:00 Bill Signing Ceremony for Fair Debt Collection
(15 min.) Practices Act. (Mr. Frank Moore) - Rose Garden.

10:30 Mr. Jody Powell - The Oval Office.

11:00 Attorney General Griffin Bell, Mr. Robert
(20 min.) Lipshutz and Mr. Stuart Eizenstat-Oval Office.

11:30 Vice President Walter F. Mondale, Admiral
Stansfield Turner, and Dr. Zbigniew Brzezinski.
The Oval Office.

1:15 Mr. Heywood C. Gay, Executive Vice President,
(5 min.) Georgia Electric Membership Corporation.
(Ms. Fran Voorde) - The Oval Office.

2:00 Secretary Harold Brown. (Dr. Zbigniew
(20 min.) Brzezinski) - The Oval Office.

THE WHITE HOUSE
WASHINGTON

September 20, 1977

Jack Watson
Stu Eizenstat

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Tim Kraft

RE: MAYOR BEAME - PHONE CALL
OR MEETING

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
		MONDALE
		COSTANZA
/		EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
/		WATSON
		LANCE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	KING

/	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

THE WHITE HOUSE
WASHINGTON

MR. PRESIDENT:

I THINK A CALL WOULD SUFFICE,
AND TONIGHT MIGHT BE AN APPROPRIATE
TIME.

IF YOU WANT TO CALL THE NEW YORK
RUN-OFF WINNER TONIGHT, THE SWITCH-
BOARD HAS THE NUMBERS.

TK TK

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

September 16, 1977

MEMORANDUM FOR THE PRESIDENT

FROM:

Stuart Eizenstat *Stu*
Jack Watson *Jack*

SUBJECT:

MAYOR BEAME - PHONE CALL OR MEETING

We have heard that Mayor Beame was dismayed and embarrassed by the fact that you did not call him after his recent defeat or speak to him specifically at the recent Mayors meeting in the Roosevelt Room. Although the Mayor has made no public comment on the matter, it is obvious from the attached article which appeared in the New York Daily News on Thursday, September 15th, that many of the Mayor's friends and supporters are disappointed in what they regard as insensitivity on our part.

It's only obvious that one newsman was looking for a column

We recommend that you call the Mayor and invite him to meet briefly with you the next time he is in Washington. We understand that he plans to be here next Wednesday as part of a large group supporting your welfare reform proposal. (The National Association of Counties has arranged a rally of people from all over the country on Wednesday morning from 10 to 12 here in Washington to express strong support for your proposal and to lobby Congress for an early passage of your bill.) Ten minutes with Mayor Beame would not only be a thoughtful gesture on your part, it would also, we think, mitigate the kind of criticism that is expressed in the attached article.

I'm glad to see him

J

Electrostatic Copy Made
for Preservation Purposes

Politics is never having to say you're sorry

FRANK LOMBARDI

POLITICIANS ARE sometimes not nice people, no matter how high their rank and how powerful their office. Such is the case with President Jimmy Carter and his nontreatment of Abe Beame, the freshly lamed mayor of the City of New York. You recall that last year the smiling peanut-pusher from Georgia was all warmth and politeness when he came to the Big Apple at a critical phase of the Democratic presidential primaries to seek the support of Hizoner.

Beame, at the time, was technically committed to Henry (Scoop) Jackson, who had won the state's primary but, after being charmed by the Southern visitor, Beame endorsed Carter on May 28 after the hungry candidate made a number of promises about lightening the city's welfare burden, considering federal insurance for city bonds and pledging that "there will never be a newspaper headline . . . telling it to 'drop dead.'"

At least two-thirds of the above promises have been broken, and the silence that emanated from the White House after Beame was defeated last Thursday was equivalent to saying: "Carter to Beame — Drop Dead!"

Nobody really expected Jimmy-boy to lift a finger to help Beame during the Democratic slugfest, but what is unconscionable is that the President didn't even lift someone else's fingers to dial Gracie Mansion and tell the defeated mayor of New York: "Sorry you lost, Abe, but you sure put up a hell of a fight!"

You might recall that, when Carter was still on his way up, the Beame endorsement was his first from a big-city mayor and that it came at a time when it made a difference. Carter was able to come to the Democratic convention here with the backing of the host mayor. Carter went on to win the city by a plurality of 675,000 votes in November in a race that could have cost him the presidency without that turnout.

Beame, however small his role, played a part in making Carter President. Certainly Beame's role was worth a couple of minutes of Carter's precious time and a call costing 46 cents for the first minute and 32 cents for each additional 30 seconds.

You might recall also that Beame's endorsement of Carter came at a time when Gov. Carey wanted a "solid front" for the Democratic convention, with the governor as the point man. Beame's endorsement of Carter touched off the mayor's feud with the governor, leading to the making of a President and the ultimate unmaking of a mayor. That's another reason the phone call was deserved.

Beame has said nothing of the shabby treatment, even after being nearly ignored by the President when Beame was in Washington Monday attending a White House conference with a group of mayors. Carter popped in for a few minutes, but made no effort to call Beame aside — before, during or after the session — to whisper a few words of consolation. One of the mayor's infuriated friends summed it up by saying: "It's proof that no good deed goes unpunished."

Several other examples surfaced before and after Thursday's demolition derby, which sent the careers of Herman Badillo, Bella Abzug and Percy Sutton into tailspins along with the mayor. We're quite used to seeing how quickly defeated politicians lose friends and winners make friends, but the speed was astonishing even to us.

Take Donald Manes, for example, the Queens borough president and county Democratic chairman — posts Manes owed to Beame through his dumping of Matty Troy in 1974. But Manes smelled defeat in the air, so he gave his mouth to Beame in terms of an endorsement and kept his legs home.

Beame finished third in Queens, behind Ed Koch and favorite son Mario Cuomo. Koch's margin of 7,173 votes — if it had gone to Beame as it could have if there had been more effort by Manes' troops

— would have been enough to put Beame in the runoff. But Manes did what many politicians do in their friends' time of need — they sit on their tails.

Last Saturday, with Beame's political corpse still warm, Manes was flying high in Cuomo's helicopter (lead balloon?) with his new "good buddy."

And then there was Badillo's half-day commitment to a coalition put together by Sutton and Bella to monitor the two winning candidates and force them to focus on important issues. Bella had misgivings from the start about Herman's participation, and Sutton soon learned that she was right.

Herman takes care of Herman first, Sutton found out when he went to visit Koch with Bella to discuss their coalition's demands. "Sorry," they were told, "Herman has been here before you." Herman was smiling as usual when he left, and Sutton and Bella were smoldering. That's another example for you.

And finally, because we're running out of room, there was the honorable congressperson from Brooklyn, Shirley Chisholm, who went on "vacation" while Sutton was making the first try by a black candidate to become mayor. Others did their best for Sutton, even if it wasn't enough to put him in contention. But Ms. Chisholm went on "vacation," and that's another example for you. We expect that there will be many more after Monday's head-to-head bout.

**Electrostatic Copy Made
for Preservation Purposes**

2:00 PM

THE WHITE HOUSE
WASHINGTON

Electrostatic Copy Made
for Preservation Purposes

MEMORANDUM TO: THE PRESIDENT

FROM:

Jack Watson
Jane Frank

September 19, 1977

RE:

Your Meeting with Secretary Brown,
Tuesday, September 20, 1977,
2 p.m. (20 minutes)

The topics Secretary Brown plans to discuss with
you are as follows:

1. "See me" on Enhanced Radiation warhead (ER) *sk*
consultations--September 9 weekly report;
2. Base closure--September 16 weekly report;
3. Visit with Speaker O'Neill--Boston Shipyard
repair work and transfer of military equipment to
Republic of Korea;
4. FB-111H vs. B-1;
5. Reorganization in DoD;
6. Progress with FY 77 rescissions (B-1, MM123);
7. Prohibition of unions in the military;
8. Chairman Stennis' advice on the Panama Canal
treaties;
9. Ambassador Comer appointment as advisor--
NATO affairs;

10. Revised IVORY ITEM scenerio;

11. General Seignious, (Ret.) appointment to
SALT delegation--not announced yet.

THE WHITE HOUSE
WASHINGTON

September 20, 1977

Stu Eizenstat
Jim Fallows

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Bob Lipshutz
Frank Moore
Jack Watson

RE: DRAFT PRESIDENTIAL MESSAGE
REGARDING LEGISLATIVE VETO
PROVISIONS

Administratively
Confidential

THE WHITE HOUSE
WASHINGTON

*Admin
conf*

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
		MONDALE
		COSTANZA
/		EIZENSTAT
		JORDAN
	/	LIPSHUTZ
	/	MOORE
		POWELL
	/	WATSON
		LANCE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
/	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	KING

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

Electrostatic Copy Made
for Preservation Purposes

THE WHITE HOUSE
WASHINGTON

September 19, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: Bob Lipshutz *RL*
SUBJECT: Congressional Veto Meeting on Tuesday, September 20,
1977 -- Yourself, the Attorney General, Stu Eizenstat
and Me

Attached is a memorandum dated September 16, 1977, from the Attorney General to you, along with a draft of a proposed Presidential message which recommends a basic policy to be adopted by you and the Congress.

With reference to the entire question of Congressional oversight of the Executive Department, and based upon the assumption that most types of "legislative veto" (whether one-house or two-house) would be unconstitutional, it appears that each type of legislation should be handled with the following options available.

1. (In many, and perhaps most cases) no legislative provision for Congressional oversight would be desirable.
2. A "wait and see" provision could be utilized, which has the effect of giving Congress an opportunity for a designated period of time in which to pass new legislation, subject to the usual Presidential veto, to stop a proposed action of an Executive Department or Agency.
3. Another alternative is a provision for a Congressional "concurrent resolution", which would merely be an expression of dissatisfaction by the Congress for the particular proposed Executive action, but which would call this to your attention and leave the final judgement in such a situation to your determination.

In substance, these would appear to be the three basic alternatives which would meet the constitutional objection and at the same time recognize a significant role for the Congress to play in an oversight capacity.

11:00 AM

There may be, of course, a few limited situations, such as the Federal Government Reorganization Program, in which a literal Congressional veto provision might be construed as constitutional and therefore be acceptable. I suggest that these should be quite limited, and perhaps (at least until constitutional questions are determined) limited to reorganization and a few foreign policy decisions.



Office of the Attorney General

Washington, D. C. 20530

September 16, 1977

MEMORANDUM FOR THE PRESIDENT

Subject: Communication of the Administration's
Position on Legislative Vetoes to Congress

This responds to your request for a position paper on this issue that could be used both to communicate your views to Congress and to serve as a basis for discussion with the congressional leadership.

After careful consideration, we have concluded that there can be no accommodation reached with Congress over the basic constitutional questions involved. So long as we believe these provisions to be unconstitutional and the courts do not authoritatively decide otherwise, we should not and cannot reach an accommodation that would compromise the core constitutional point in issue -- that Congress cannot control or dictate Executive action by any means other than legislation subject to the Presidential veto power.

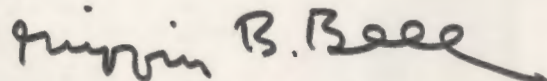
At the same time, we think there is considerable latitude, as reflected in the enclosed draft Presidential Message to Congress, to reach an accommodation with Congress designed to channel the forces supporting the legislative veto by mechanisms that do not raise substantial constitutional questions. In evaluating the various options available, we think it important not to lose sight of the fact that legislative oversight can easily be converted into legislative interference with Executive functions and that most of the suggested options carry with them identifiable costs to our decisionmaking process, including especially delay.

The general course we recommend is based on our perception that the proponents of legislative vetoes are primarily motivated by a desire to have Congress play a more active role in foreign affairs and to increase the responsiveness of the

Executive Branch to the desires of their constituents who are affected by virtually every form of governmental decisionmaking. Although we entertain serious doubts whether Congress is institutionally capable of playing the kind of roles envisioned by proponents of legislative vetoes, we do think that constitutionally acceptable means exist which would at the least give Congress the opportunity to play a greater advisory role in the execution of law by the Executive Branch.

The attached draft Presidential Message is based on considerations set out more fully in my memorandum to Bob Lipshutz of August 12 and the August 1 report prepared by the Office of Legal Counsel on this subject, copies of which are enclosed for your use. Both of those documents have, at your request, been transmitted to members of the Cabinet.

Once your position is communicated to Congress, I will stand by to follow up through discussions with the leadership and other key members of Congress. You might consider the possibility of meeting yourself with the leadership to explain your position in advance of the transmittal of any message to the full Congress.



Griffin B. Bell
Attorney General

Enclosures

DRAFT
PRESIDENTIAL MESSAGE

Sta -
Emphasize in 1st P
my oath & binding of
Conscience to uphold
Constitution JC

In recently signing into law two bills, I had occasion to express to you my deep reservations regarding so-called legislative veto provisions contained in those bills. I have become convinced that the recent proliferation of such devices in statutes and in legislation pending before you poses a very real threat to my ability to carry out my constitutional responsibility to execute the law. I have also become convinced that the resort by Congress to the legislative veto threatens to undermine the spirit of cooperation between the President and the Congress that is of great importance if we are to live up to what is expected of us by the American people.

As you are probably aware, the courts have yet to decide authoritatively the constitutionality of the legislative veto. Furthermore, the Attorney General has advised me that early judicial resolution of the constitutional issues raised by these devices is not necessarily forthcoming. Thus, it seems to me that it would be better for us, as co-equal Branches, and better for the people of America, if we could avoid the potential for constitutional confrontation that these devices invariably engender.

Any accommodation we may reach on this difficult issue must be based on mutual respect. That is, your respect for my obligation to execute the law and my respect for the important advisory role that you have come to play in overseeing the operation of the Executive Branch. My purpose is to bring us to a point where the exercise of your oversight function is both productive and consistent with the respective roles accorded us by the Constitution.

To this end, I am willing at appropriate times to discuss, personally or through members of my Administration, the merits of proposed Executive action in which you collectively or individually express great interest. I am also preparing to take steps to give the people more input into the decisionmaking process that so often affects their daily lives by permitting them to make their views known in the early stages of the regulatory process. Given this general approach, which I expect my Administration to follow consistently, I would hope that you would have full opportunity to fulfill your important advisory role in overseeing the operation of the Executive branch. If your collective judgment is that this process needs

to be formalized, I am prepared to accept legislation in appropriate cases requiring the Executive Branch to "report" certain proposed actions to you and to "wait" for a specified and reasonable period of time before taking that action. During these "waiting" periods, I would hope that we will be able to resolve amicably any disagreements we may have. If we are unable to do so, you will have the opportunity during the waiting period to enact legislation to control the outcome, subject of course to my veto power. Such report and wait provisions obviously entail certain costs, such as delay in the decisionmaking process and the devotion of your own time to the issues involved. For that reason, I would strongly prefer that these report and wait provisions be included in legislation on a highly selective basis.

I would also be amenable to the use by Congress of concurrent resolutions expressing your dissatisfaction with a particular executive action or proposed action and requesting my personal review of that decision where the law otherwise permits me to do so.

An area deserving of special mention is that of administrative rulemaking. As stated above, I am presently considering ways to ensure that the process by which the Executive Branch promulgates

regulations affecting the lives of most citizens is designed to ensure the maximum participation in that process by those who are going to be affected by the regulations. Where practicable, I welcome you to express your views and provide information in the rulemaking process itself. Congress is certainly free, to the same extent as the general public, to present its views regarding the formulation of specific rules and regulations except in formal adjudications, in which even I have no role. Although this course will provide you the opportunity to exercise significant oversight of the administrative process, you may decide to make selective use of report and wait provisions in this context as well. I am willing to accept such provisions in special situations, but would again urge that they be confined to those regulatory actions so major as to warrant your collective consideration.

In my view, legislative veto provisions reflect a distrust of our ability to work together to resolve the difficult issues facing us and a rejection of the constitutional division of responsibilities between the Executive and Legislative Branches. I want to work with you to displace this distrust, thereby avoiding a constitutional confrontation that is both unfortunate and unnecessary.

~~THE~~ PRESIDENT HAS SET
THE WHITE HOUSE
WASHINGTON

September 20, 1977

C

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK MOORE

I received the following recommendation from Les Goldman of the energy staff for your calls on deregulation:

"Pursuant to deregulation the price of Alaska gas could go up substantially -- \$20 billion. The President should stress the offer of a personal visit by Dr. Schlesinger to any Senator who feels that is necessary."

I have discussed this with Dr. Schlesinger and he concurs.

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

Q

EYES ONLY MEMO FROM C.E.A.:

**Electrostatic Copy Made
for Preservation Purposes**

THE PRESIDENT HAS ORDERED
THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

EYES ONLY

September 20, 1977

e

MEMORANDUM FOR THE PRESIDENT

From: Charlie Schultze *CS*
Subject: August Consumer Price Index

At 9:00 A.M. tomorrow (Wednesday, September 21) the August CPI will be released.

It is good news. Consumer prices increased by 0.3 percent, the lowest increase since last December. Moreover, increases were moderate in all major categories.

	<u>Percent change</u>
Food	0.3
Commodities, less food	0.3
--durables	0.1
--nondurables	0.4
Services	0.5

The "services" category had been growing at rates in the 0.7 to 0.8 range since March.

We are not out of the woods on inflation. Consumer commodity prices, less food, have been growing for the past three months at rates below what we had expected. Given what is happening to wholesale commodity prices, this good performance probably won't last. But the current moderation may help reduce inflationary expectations.

Electrostatic Copy Made
for Preservation Purposes

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

September 19, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: JIM FALLOWS *JF*

SUBJECT: Signing Ceremony--Fair Debt Collection
Practices Act, September 20, 1977

1) The legislation you are signing today represents a major victory in a very old fight--the struggle to be sure that our nation's laws adequately protect both consumers and honest businessmen from unscrupulous business practices.

Specifically, this act will protect American consumers from unfair, and sometimes abusive, actions by debt collection agencies.

2) Last year, more than \$5 billion in debts were referred to collection agencies. Most of them pursue their claims in a fair and dignified manner, but some do not. Sometimes companies resort to harassment, deception, and other steps which invade the privacy or offend the dignity of those who owe the debts. These are especially offensive in those cases, all too common, where the collection agency has made a mistake about the debtor's identity. Sometimes agencies go even farther; in developing this bill, Congressmen heard about threats of violence, telephone calls made all through the night, revelations of personal affairs to friends, neighbors, and employers. None of these tactics has any place in the proper business standards of our nation, as nearly all businessmen would agree. This bill will help make sure they do not happen.

3) This bill strikes a fair balance between the interests of consumers and those of businessmen; as such, it is a tribute to the skills of those who led its passage. You would like to mention in particular Chairmen Proxmire and Reuss of the Senate and House Banking Committees, as well as Senator Riegle and Representatives Annunzio and Wylie who led the fight for the bill.

4) This is the first consumer bill to be passed by the 95th Congress, and you are confident that many others will follow. The measures you mentioned in your Message on consumer issues last April are still working their way through the Congress. They include expanding the right for responsible class action suits; enabling consumer groups to represent themselves before government agencies; and expanding the citizen's right to protect his interests by filing suit. But the most important piece of legislation of all in this group is the creation of the Consumer Protection Agency, which would make the government a fairer and more efficient representative of the consumer's interest. As you said in your Message, the Agency will "enhance the consumer's influence within the government without creating another unwieldy bureaucracy."

5) There is a special satisfaction and symbolism in this signing ceremony. Only once or twice in the last eight years were consumer bills signed at the White House; over all those years, Congressional leaders like the ones who are joining you today have fought for improved consumer legislation. You hope that you will have many more occasions in the future to invite them here for ceremonies like this.

THE WHITE HOUSE
WASHINGTON

September 20, 1977

Hamilton Jordan

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Bob Lipshutz
Frank Moore
Jim King

RE: TENTH CIRCUIT COURT OF APPEALS
JUDICIAL APPOINTMENT (UTAH)

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
/	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
/		JORDAN
	/	LIPSHUTZ
	/	MOORE
		POWELL
		WATSON
		LANCE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
/	KING

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

Ham
J

WASHINGTON


MEMORANDUM FOR THE PRESIDENT

SUBJECT: Tenth Circuit Court of Appeals Judicial
Appointment (Utah)

Attached are a memorandum from Bob Lipshutz on this vacancy, along with one from Frank Moore, and the recommendation received from Judge Bell.

As you will note, the initial recommendation was for David K. Watkiss. However, as a result of Frank Moore's information, we have checked into this further and discussed it with Judge Bell.

Based on our conversations with Judge Bell and others, Bob Lipshutz, Frank Moore and I recommend that you choose Monroe G. McKay as your appointment to this vacancy.



Approve Watkiss _____

Other: _____

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

MEMORANDUM

TO: Hamilton Jordan cc: Frank Moore
FROM: Bob Lipshutz *RJL*
SUBJECT: Tenth Circuit Court of Appeals Judicial Appointment (Utah)

Attached is a memorandum to the President from the Attorney General recommending the nomination of David K. Watkiss as first choice for this appointment.

Please note, however, that Monroe G. McKay is the other recommendation for this appointment. Initially, the Attorney General and Frank Moore and I all felt that Mr. Watkiss should be appointed for this vacancy. However, based upon the information which Frank Moore has submitted in the attached memorandum, I think the matter should be reviewed very carefully and that all factors be considered, with the understanding that both of these men are recommended as professionally well-qualified for the appointment.

Attached is the memorandum from Frank Moore.

THE WHITE HOUSE
WASHINGTON

September 6, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK MOORE *Fm,*

I understand that the Justice Department has sent over two names, David Watkiss and Monroe McKay. Justice is recommending Watkiss for several reasons--one being that current Governor Matheson is supporting him (Watkiss having been his campaign manager). Calvin Rampton, the former Governor of Utah and a law partner of Watkiss, is also recommending him. You may recall that he once said that he knew 40 Democratic Governors and that he ranked Carter 39th. The Utah Bar Association has recommended Watkiss over McKay. The Utah Bar Association is composed of 5 Republicans and 3 Democrats and was found to have been changing the scores on law students exams in order to give Republicans passing scores and Democrats failing scores.

The Speaker, Jim Wright and Mo Udall (who has practiced law with Monroe McKay in Arizona) all highly recommend McKay and say he is a fine man. The Justice Department rates them both fairly even. Although I doubt that we will ever carry Utah in a Presidential election, there is a good deal of political benefit to be gained by going with a friend we need up here.

The Mormon church has indicated to me through their liaison that they prefer Monroe McKay, but cannot take an official position because Watkiss' brother is an apostle.

Monroe McKay was the unanimous selection of the committee without any political pressure from anyone. He was selected on his own merit, and he is one of two names being recommended to you from the Justice Department.

I have never disagreed with Attorney General Bell on any of his recommendations. I know you want the finest people as U. S. attorneys and judges. Bob and Griffin asked me for my comments, and I am giving them to you as honestly and strongly as I know how.



Office of the Attorney General
Washington, D. C. 20530

August 17, 1977

RL
MEMORANDUM TO THE PRESIDENT

RE: Tenth Circuit Court of Appeals -- Utah

Attached is a copy of the report of the Tenth Circuit Judicial Nominating Panel, along with resumes on the five individuals recommended for the Utah vacancy.

I recommend David K. Watkiss as my first choice. He is a highly respected practicing attorney in Salt Lake City. Mr. Watkiss is also the choice of Governor Matheson of Utah.

My second recommendation would be Monroe G. McKay, currently teaching at Brigham Young University Law School. He is the brother of Gunn McKay, the only Congressman from Utah.

Should you want me to rank the other three, I will be happy to do so. I also will make my recommendation to you on the Tenth Circuit -- Kansas vacancy in the near future.

Griffin B. Bell

Griffin B. Bell
Attorney General

Attachments

DAVID K. WATKISS

Born October 16, 1924, Salt Lake City, Utah, B.S. 1949, University of Utah (began college in 1941 but left to enter Army); LLB. 1949 (Utah Law School had no Order of the Coif, law review or moot court competition.).

Experience:

1950-52:	Solo practitioner, Salt Lake City, Utah;
1952-55:	Deputy Salt Lake County Attorney;
1955-present:	Partner in law firm of Pugsley, Hayes, Rampton & Watkiss (now Watkiss and Campbell), Salt Lake City, Utah.

Comments:

Experienced litigator, general practice of law. Has appeared in both state and federal courts, but during the past ten years most of the cases have been in federal courts and have involved major complex litigation. Has appeared in several administrative matters before the Federal Power Commission and the National Energy Board in Canada. Has represented a number of major corporate clients in securities and antitrust matters. Was a special hearing officer for the Department of Justice in Selective Service Conscientious Objector matters from 1964-67. Has testified before the Senate and

the House on antitrust matters. No publications. Has been an active member of the Bar. Elected as Fellow in the International Academy of Trial Lawyers in 1969 and the Director in 1974. Admitted as Fellow of the American College of Trial Lawyers in 1976. Has lectured on numerous occasions in Bar sponsored continuing legal education programs.

MONROE GUNN MC KAY

Born May 30, 1928, Huntsville, Utah, B.S. 1957, Brigham Young University (degree in political science, graduated with high honors, student body president, served two years as dormitory head resident and completed college entirely with own earnings); J.D. 1960, University of Chicago (Order of the Coif, managing editor, law review).

Experience:

1960-61:	Law clerk to Justice Jesse A. Udall, Supreme Court of Arizona;
1961-66:	Associate with Lewis & Roca, Phoenix, Arizona;
1966-68:	Directed Peace Corps Project in Malawi, Africa;
1968-1974:	Partner in Lewis & Roca;
1974-present:	Professor at Brigham Young University (Con Law, Administrative Law, Contracts, Civil Procedure).

Comments:

General practice of law with emphasis on litigation and administrative proceedings. Specialized to some extent in adoptions, planning and zoning, administrative proceedings and state and local taxation. Most appearances have been before state courts or administrative bodies. Both trial and appellate experience. Before going to college, worked as an electrical mechanic for the Air Force for several years. Was arrested for

shoplifting at the age of 16 and released after counseling under the juvenile laws of the State of Utah. One publication. Has served on several law school committees. Was president of the Arizona Association for Health and Welfare from 1970 to 1972. Has been active in political organizations and was campaign manager in unsuccessful primary campaign by Renzel Jennings for United States Senate from Arizona.

JOHN JOSEPH FLYNN

Born April 10, 1936, Chelmsford, Massachusetts, B.S. 1958, Boston College (History, cum laude, debating society, president of college honor society), LL.B. 1961, Georgetown University Law School (moot court, editorial board, Georgetown Law Journal, graduated 1st or 2nd in class); S.J.D. 1963, University of Michigan Law School (degree conferred 1967 upon thesis completion, 4.0 average).

Experience:

1963-present:

Assistant, Associate and then full Professor of Law, College of Law, University of Utah, Salt Lake City, Utah. (Subjects have included antitrust, regulated industries, patent, copyright and trademarks, and jurisprudence.) Has been during these years a consultant with various law firms on various cases, almost entirely in the areas of antitrust, regulated industries, securities and bankruptcy.

Comments:

His experience in the practice of law has been entirely as "counsel to counsels." He has appeared in court only a few times

including one argument in the Supreme Court on a search and seizure question. Personally handled Utah Public Service Commission v. El Paso Natural Gas Company in the Supreme Court. In 1970-71, was special counsel to the Senate Antitrust Subcommittee, appointed by Senator Hart. Has been visiting professor at various times at Michigan, Georgetown, Texas, Washington University, University of Pennsylvania. Has served on various committees at the University of Utah College of Law. Has published several books and numerous articles, principally in the antitrust area.

DANIEL LOUIS BERMAN

Born December 14, 1934, Washington, D.C., B.A. 1956, Williams College (cum laude; Dean's List; Lantham's Prize for Outstanding Senior Honor's Thesis in Political Science; varsity football and lacrosse); LLB. 1959, Columbia Law School, (Harlan Fiske Stone Scholar; member of Board of Editors, Columbia Law Review; Administrative Law Prize).

Experience:

1959-1960:	Associate, Chadbourne, Parke, Whiteside & Wolff;
1960-62:	Assistant Professor of Law, University of Utah, College of Law;
1962-63:	Clerk to Honorable Willis W. Ritter, Chief Judge, United States District Court, District of Utah;
1963-1969:	Associated in practice of law with Joseph L. Alioto, San Francisco, California;
1969-1975:	Private practice of law as sole practitioner;
1975-present:	Partner in firm of Berman & Giaunque, Salt Lake City, Utah.

Comments:

During years of practice, has also been a visiting professor at the University of Utah College of Law teaching courses in antitrust law and complex litigation. Practice has been devoted almost exclusively to litigation, 85% to federal litigation. Has handled as lead counsel well over 100 private antitrust actions (principally plaintiff's lawyer) and has broad experience in other areas of federal litigation, including securities, tax, criminal and CAB matters. Experience could generally be characterized as involving complex litigation. Was associate trial counsel for Telex in Telex v. IBM. Has argued on numerous occasions in the Ninth and Tenth Circuits. No significant publications. Has been divorced twice and underwent therapeutic counseling in connection with last marriage.

ALDON J. ANDERSON

Born January 3, 1917, Salt Lake City, Utah, B.A. 1937, University of Utah; J.D. 1943, University of Utah Law School (president of law school; president of social fraternity).

Experience:

1943-46:	Attorney, Utah State Tax Commission;
1946-1952:	With law firm of King, Anderson & Durham. (King was elected United States Congressman.)
1952-57:	State District Attorney for the Third Judicial District, which includes Salt Lake County (elected to office);
1957-1971:	Judge, District Court for the Third Judicial District (general trial jurisdiction; appointed);
1971-present:	United States District Judge for the District of Utah. From 1965-1971, taught Business Law in the School of Business at the University of Utah; and from 1968-1970, taught Evidence in the School of Sociology at the University of Utah.

Comments:

Experienced trial lawyer in the general practice of the law--real estate, divorce, small businesses, personal injury. As District Attorney, prosecuted and tried a substantial number of criminal cases. Virtually all practice was in state courts and more than half of it was criminal. In 1948, was unsuccessful candidate for State House of Representatives. From 1969-1970, was presiding judge of the State District Judges of the State of Utah. From 1966-69, was presiding judge of the Family Court; 1970-71, chairman of the Unified Court Committee for the Utah State Bar; 1970, vice-chairman of Utah State Bar Committee on Uniform Rules of Evidence.

United States Circuit Judge Nominating Commission

TENTH CIRCUIT PANEL

Please reply to:

Alfred M. Pence, Chairman
P.O. Box 1285
Laramie, Wyoming 82070
307/745-3434

August 4, 1977

The President
The White House
Washington, D.C. 20530

Mr. President:

Pursuant to your letter of June 2, 1977, Executive Order #11972, and detailed instructions of the Associate Attorney General of the United States, as Chairman, I have caused the Panel of the Tenth Circuit, U.S. Circuit Judge Nominating Commission, to select a list of recommended nominees to fill existing vacancies on the Tenth U.S. Court of Appeals. Their names, addresses, and the vacancies to be filled follow.

From the state of Kansas to fill the vacancy created by the retirement of the Honorable Delmas C. Hill:

Jerry G. Elliott
Foulston, Siefkin, Powers & Eberhardt
700 Fourth Financial Center
Broadway at Douglas
Wichita, Kansas 67202

James K. Logan
P. O. Box 151
Olathe, Kansas 66061

David Prager
Associate Justice - Supreme Court
Statehouse
Topeka, Kansas 66612

From the state of Utah to fill the vacancy created by the prospective retirement of the Honorable David T. Lewis:

Aldon J. Anderson
U.S. District Judge - District of Utah
U.S. Courthouse
Salt Lake City, Utah 84101

Daniel L. Berman
Berman & Giaque
500 Kearns Building
Salt Lake City, Utah 84101

Professor John J. Flynn
College of Law
University of Utah
Salt Lake City, Utah 84112

Monroe G. McKay
3804 North 650 East
Provo, Utah 84601

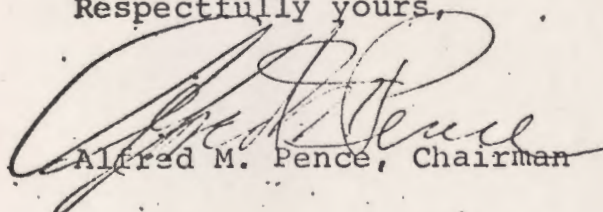
David K. Watkiss
Watkiss & Campbell
Twelfth Floor, 310 South Main St.
Salt Lake City, Utah 84101

The list of persons above set forth, whom the Panel has had under consideration and by a majority vote deemed to be well qualified to be a federal appellate judge, and they are hereby, and each of them, recommended to you for consideration for that position.

You will observe that there are 5 names from the state of Utah to be considered to fill the vacancy created by the prospective retirement of the Honorable David T. Lewis, but that there are only 3 names from the state of Kansas to fill the vacancy which was created from the retirement of the Honorable Delmas C. Hill. It was the opinion, and a vote of the majority of the Panel, that there were not 5 applicants from the state of Kansas who were well qualified for the position of Circuit Judge.

We are transmitting herewith, for each of those persons above named, the completed questionnaire, together with all supporting documents.

Respectfully yours,



Alfred M. Pence, Chairman

Enc.

THE WHITE HOUSE
WASHINGTON
September 20, 1977

Jody Powell

The attached was returned
in the President's outbox
today and is forwarded to
you for your information. The
signed original has been sent
to Stripping for mailing.

Rick Hutcheson

HANDWRITTEN LETTER TO SARAH
MC CLENDON

cc: . Stripping

THE WHITE HOUSE
WASHINGTON

9-20-77

To Sarah M^c Clendon

Thank you for your
thoughtful note.

Each time I've called
on you at the press
conferences you've asked
superb questions.

Your friend,

Jimmy

9/14/77

THE WHITE HOUSE
WASHINGTON

Mr. President

This is rather
unusual. A short
personal reply would
be appropriate.

Jody

SARAH McCLENDON

2933 28th Street, N.W., Washington, D.C. 20008

News Correspondent and Columnist • Radio-TV Newscaster • Lecturer • Consultant
McClendon News Service • Sims News Bureau • Texas Trends • White House Report

202/483-3791
483-7918

September 8, 1977

Honorable "Jimmy" Carter
President of the United States
The White House

Dear Mr. President:

I want to thank you from the bottom of my heart for what you did for women on August 26, Equality Day.

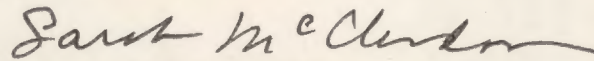
Your receiving the women and permitting a spokesman to make remarks, and your permitting the women to have some contribution to the proclamation were unusual considerations on your part and these things certainly contributed to the impact which women were allowed to make that day.

I talked to so many people from many states who were so impressed that the President received the women in the Rose Garden. Your remarks on that day were particularly suitable and gave us a great advantage. I especially want to thank you for letting members of your family and your staff work for Equal Rights for Women. We are grateful to have Midge Costanza on your staff with the authority to work on problems of women. She has been such a help. I want you to know that I and the organization I represent, the National Women's Party are deeply grateful to you.

I have the privilege of making numerous speeches in various parts of the country throughout the year, as well as appearing on talk shows on radio and T.V. and I am always telling my audiences that you are making the greatest individual effort to serve the American people and our country in this day and time than any President I have seen in Washington and you are my eighth.

With all good wishes, I am

Sincerely yours,


Sarah McClendon

THE WHITE HOUSE
WASHINGTON
September 20, 1977

Stu Eizenstat

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: The Vice President
Frank Moore
Jody Powell
Jack Watson
Bert Lance
Jim King

RE: POSTAL POLICY

THE WHITE HOUSE
WASHINGTON

*Admin
conf'd*

	FOR STAFFING
	FOR INFORMATION
	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION
FYI

	/	MONDALE
		COSTANZA
/		EIZENSTAT
		JORDAN
		LIPSHUTZ
	/	MOORE
	/	POWELL
	/	WATSON
	/	LANCE
		SCHULTZE

not Tabs

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
		CARP
		H. CARTER
		CLOUGH
		FALLOWS
		FIRST LADY
		HARDEN
		HUTCHESON
		JAGODA
	/	KING

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

THE WHITE HOUSE
WASHINGTON

9/19/77

Mr. President:

Jordan and Watson had no comment on an earlier draft of this memo.

Congressional Liaison reports that the House is almost certain to pass legislation increasing presidential control over the Postal Service. Administration opposition to the notion will be futile. The postal unions strongly support HR 7700.

Presidential Personnel Office recommends that the PMG be appointed to serve at the President's pleasure, rather than for a fixed term -- the President should have control if he is going to be held responsible for postal management. Also, the Personnel Office opposes increasing the size of the Board of Governors -- a larger Board would be unwieldy. A better way of increasing control over the Governors would be to reduce the length of their terms of office.

--Rick

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

September 15, 1977

Stu
J

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: THE PRESIDENT

FROM:

BERT LANCE

STU EIZENSTAT

BOB MALSON

Jim McIntyre for
Stu
BK

SUBJECT:

POSTAL POLICY

The Administration is scheduled to testify on H.R. 7700, the Postal Service Act of 1977, next week. The Domestic Policy Staff and the Office of Management and Budget have reviewed the provisions of this legislation and have identified four issues which require your attention and direction. Your decision on these issues will form the foundation of the Administration's postal policy:

- o Should the Postal Rate Commission be abolished?
- o Should the subsidies be maintained or modified?
- o Should you have the authority to appoint the Postmaster General?
- o Should the Board of Governors be abolished or strengthened?

The main thrusts of H.R. 7700 are as follows:

- o The present postage rate process permits the Postal Service to request a specific new rate from the Postal Rate Commission. The Commission, in turn, conducts a public hearing on the proposed rate, issues a decision and sets the new rate. H.R. 7700 amends the process to allow for a Congressional veto by concurrent resolution of both Houses of Congress of the Commission approved postage rate package plus the right to appropriate an amount equal to the shortfall caused by the veto.

- o The present public service appropriation of 10% of the 1971 postal appropriation (\$920 million) would be increased to 15% of the prior fiscal year's operating expenses. Approximately \$2.5 billion would be appropriated in FY 79 based upon the anticipated operating expense of \$17 billion for FY 78. The purpose of the appropriation would be to offset the expensive "public services" such as six-day a week delivery, the operation of rural post offices and a modern research and development program.
- o The bill abolishes the Board of Governors and provides for presidential appointment of the Postmaster General with Senate confirmation.

Background

Both of the Chairmen of the House Postal Subcommittees (Representatives Hanley and Wilson) sponsored this bill and they are the strong supporters in the House. The Chairman of the House Post Office and Civil Service Committee, Congressman Nix, has advised us that he favors the bill, in general, but will be willing to work out any compromise that might be required between the Administration and the Subcommittee Chairmen should the need arise. He is far more concerned that the Congress have the right to approve any reduction in the levels or type of service before the Postal Service could implement any desired change. Mr. Nix is particularly concerned about the rumored proposed elimination of Saturday mail delivery. Last Thursday he introduced a bill (H.R. 8987) which would prevent the reduction without Congressional authority. OMB is generally opposed to enacting legislation which decreases executive control of executive functions. However, this matter is somewhat unique and we will work closely with Chairman Nix to see if a mutually acceptable position can be achieved.

Senator John Glenn, the Chairman of the Senate Postal Subcommittee, has also advised us of his views on H.R. 7700.

- o He sees no need for Presidential appointment of the Postmaster General but will defer to your judgment.
- o He opposes the 15% public service subsidy but favors direct line-item appropriations.
- o He does not favor abolishing the Postal Rate Commission but he does oppose a Congressional veto of postage rates.

- o He favors the creation of direct subsidies for research and development.
- o He believes that the Board of Governors might be restructured somewhat to insure greater accountability.
- o Senator Glenn plans to introduce his own bill before the end of September that would not contain the 15% public service subsidy. He believes it is unlikely that either H.R. 7700 or the Senate bill will pass both houses of Congress this year.

Discussion

The Postmaster General, whether appointed by the President or by an independent Board of Governors, must run an efficient Postal Service whose parameters for decision-making are defined by the following:

- o 86% of next year's \$17 billion postal budget is earmarked for wages and benefits for the 657,000 postal employees. The Postmaster General will begin to negotiate with the heads of the four exclusive bargaining units next spring for the terms of the agreement that will follow the present contract which expires July 20, 1978.
- o In the postage rate case that is scheduled to begin this fall, the Postal Service has set aside an amount equal to an increase in the base pay of about 5% and a continuation of the "cost of living allowance" (COLA) of an additional 5%. If the unions agree to these proposals the average postal worker's wage and fringe benefits package would increase in value from \$17,300 to over \$18,150. The COLA of an anticipated \$1,200 will increase the average postal employee's income beyond \$20,000 by late 1979 or early 1980.
- o Postmaster General Bailar is thought to be a hard negotiator and is expected to hold the line on these amounts unless he can bargain for less.

The Postal Service receives two distinct forms of major subsidies -- the "public service" subsidy and the "revenue forgone" subsidies. The former generally is applied to the

operations expense as a whole and the latter are subsidies designed to benefit specific classes of mail by reducing the amount of postage the customer pays compared to the cost of delivering that service.

Public service subsidies of 15% of the prior year's budget would alter the current postal statutory scheme and the Federal budget picture substantially. The present law locks in the public service subsidy at \$920 million per year until 1979 when that subsidy will begin to be phased out at the rate of \$92 million per year for five years until it reaches \$460 million in 1984. The statute grants the Postal Service the right to reduce this figure to zero after 1984 if it is determined that the subsidy is no longer required. As a result, the opponents of a mail system that is paid for out of the sale of postage and services have called for a renewal of the public service subsidy that is triple the present level. The Postal Service management has advised us that they believe that support for the 15% subsidy will increase the unions' demands for higher wages.))

The Congress intended that the Postal Service operate like a business and that the sale of postage and services generate sufficient revenues to cover all remaining costs except those for which specific line item subsidies were authorized. These revenue forgone subsidies amounted to almost \$725 million in 1976 and the attached itemized accounting at Tab "A" indicates the amounts of the subsidies and states the subsidies in percentages of total FY income.

We believe it is significant that the magazine publishers received revenue forgone subsidies equal to 46% of their true postage costs. Their subsidy was \$183 million compared to their postage bill of \$215 million in 1976. This is mirrored by the book and record clubs whose rates reflect a 28.5% subsidy of their postage costs. (See items "C" and "E" at Tab "A".) Both subsidies are to be reduced substantially in 1978 and beyond as part of the current plan to eliminate them completely. The beneficiaries of these decreasing revenue forgone subsidies are now arguing strenuously for increased public service subsidies.

Issues for Resolution

1. The Postal Rate Commission (PRC)

The Commission sets the postage rates that determine over 93% of the Postal Service's income. Conceptually, rates

can be set by (1) the Congress; (2) the Postal Service; or (3) a third "independent" body such as the PRC. The first two are unsatisfactory. Congress will not take the rate-making function back unless it receives the authority to set both postage rates and postal appropriations. OMB and the Justice Department are opposed to permitting Congress to usurp the executive function of setting rates. The Postal Service should not have the authority (through the Board of Governors) to set the rates that determine its income while simultaneously maintaining the responsibility to manage the Service. Otherwise, the Service could justify its own inefficiencies by simply setting higher rates and a conflict of interest would be inherent in every rate case.

On October 30, 1976, you issued a statement on the Postal Service in St. Louis in which you promised to support legislation to make the Postmaster General a Presidential appointee subject to confirmation by the Senate. The statement also contained a pledge to abolish the PRC and place rate-making authority in the Board of Governors. (The text of the statement is attached at Tab "B".) We now believe the Postal Rate Commission should be retained and Congressional veto of rates coupled with Congressional "shortfall" appropriations opposed. This view is shared by Senator Glenn; Speaker O'Neill; the Postal Service; the Justice Department; and the Commerce Department. It is also the view of the Postal "Study" Commission which was created by Congress last October and issued its study this past April. The proposed language providing for a concurrent resolution of disapproval of rate recommendations may be unconstitutional.

<div data-bbox="389 1092 454 1176" style="font-size: 2em;">✓</div> <div data-bbox="300 1165 495 1186" style="border-bottom: 1px solid black; width: 120px; margin-bottom: 10px;"></div> <div data-bbox="300 1323 495 1344" style="border-bottom: 1px solid black; width: 120px; margin-bottom: 10px;"></div> <div data-bbox="300 1386 495 1407" style="border-bottom: 1px solid black; width: 120px;"></div>	<p>Approved Retention of the Postal Rate Commission and opposition to Congressional veto of rates (Recommended)</p> <p>Disapproved</p> <p>Comment</p>
--	--

2. Public Service and Revenue Forgone Subsidies

H.R. 7700 will increase the public service subsidy from \$920 million (about 10% of the 1971 budget and 5% of the current USPS budget) to a set 15% of the prior year's operating expense.

The Arguments For Higher Public Service Subsidies

- o They would be popular and give the appearance of being progressive by creating the impression that someone else is paying the bill.

- o They will help keep rates down and will ease the pressure for service cuts.
- o They will be welcomed by the members of the House Post Office and Civil Service Committee.
- o They will receive the editorial support of the nation's newspapers.
- o They will give the President and the Congress an element of control over the Postal Service that does not presently exist.

The Arguments Against Higher Public Service Subsidies

- o They weaken the Postal Service's incentive to be more efficient. Since the subsidy is tied to the prior year's operating expense, inefficiencies are built-in.
- o There is a disincentive to bridge the income gap by making tough, unpopular decisions when Congress will make up the difference with appropriated funds.
- o They represent a predictable drain on the Federal budget and are inconsistent with your determination to balance the budget. It is estimated that the 15% public service subsidy proposed in H.R. 7700 could equal a cumulative total \$12 to \$15 billion over the first four budget years.
- o They are regressive. Business shoulders most of the burden of increased postage (80-85%). Individual taxpayers pay for subsidies (70-75%).

We recommend that the 15% public service subsidy formula contained in H.R. 7700 be opposed and the Administration recommend that the bill be amended to continue the annual \$920 million public service subsidy for three years (through 1981), but without the phase-down to \$460 million in 1984 as is currently required by law. The 15% formula would add approximately \$2 billion to the budget each year over and above the \$920 million public service subsidy. The Postal Service agrees that the 15% public service subsidy should be opposed. They also oppose continuing the \$920 million subsidy. Postal management continues to support the break-even concept embodied in the Reorganization Act, i.e., revenues ultimately covering costs. The magazine publishers, the postal unions, Rep. Hanley, and Rep. Wilson all favor

the 15% subsidy. The Postal Study Commission recommended a 10% public service subsidy. Joseph Vacca, the President of the National Association of Letter Carriers, testified before the Study Commission in January that \$8 or \$9 billion ought to be appropriated annually for public service subsidies. There are no alternatives to the financial problems other than increasing postage rates, increasing subsidies or decreasing services, although good management is also of importance.

_____ Approved Public service subsidy equal to 15% of the prior year's operating expense as stated in H.R. 7700

_____ Approved Opposition to the 15% public service subsidy formula in H.R. 7700 and continuation of the \$920 million public service subsidy for three years (Recommended)

Why change present law?

_____ Approved No change in the current law (\$920 million subsidy reduced to \$460 million in 1984 before being phased out)

_____ Comment

In an effort to improve the budget decision-making process we recommend that the Administration support the idea of separately identifying in the budget the revenue forgone subsidies provided to the Postal Service on the basis of postal services provided to various classes of mail users. By delineating those who receive the benefits of federal subsidies, the Administration and Congress would be in a better position to track, monitor and evaluate the relative merit of these subsidies or any proposed increases.

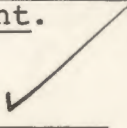
✓ _____ Approved Support for the idea of separately identifying subsidies based on the type of services provided (Recommended)

_____ Disapproved

_____ Comment

While we believe the Postal Service should remain essentially independent, there are areas of postal operations which we believe the Administration should be concerned about. Specifically, we are concerned about the future of the

postal system and its ability to respond to changes in communications technology. We therefore recommend exploring, during the current budget review process, Senator Glenn's proposal for separate line item research and development subsidies to the Postal Service for promoting technological advancement.


 _____ Approved Exploration of Senator Glenn's
 _____ Disapproved proposal for line R & D
 _____ Comment subsidies (recommended)

3. Postal Management and Control

Presidential Appointment of the Postmaster General. The President appoints one member of the Board of Governors annually for a fixed term of nine years. The nine members of the Board select the Postmaster General and the Deputy Postmaster General who serve as members of the Board for all matters except their selection or the selection of their successors and decisions regarding rates. Nearly all of those favoring presidential appointment also favor massive subsidies to the USPS. Although a new Postmaster General might be able to relate better with the unions and others who desire a Democratic Postmaster General who might be willing to incorporate new technologies, Presidential appointment alone will not solve the Postal Service's problems.

The Arguments for Presidential Appointment of the PMG

- o If the PMG were able to improve service, you would be credited with a major success.
- o The Congress would be back in the postal management process through Senate confirmation of the PMG.
- o The unions would be pleased.
- o It would give you the opportunity to put your own team in charge of the Postal Service.
- o It will fulfill a campaign promise.

The Arguments Against Presidential Appointment of the PMG

- o Many people support the concept of having the

Postal Service on an independent, business-like basis. They are likely to voice their opposition to a decision to take over the Postal Service.

- o If service does not improve, you will be criticized and have little or nothing to show for your efforts.
- o In the opinion of many people, it will be difficult for your Postmaster General to bargain meaningfully with the postal unions that overwhelmingly supported you for the Presidency.
- o You would lose your insulation from criticism of unpopular decisions such as postage rate increases. Before the Postal Reform Act of 1970, every increase was a political albatross around the necks of the Congress and the President. As a result, they were usually delayed as long as possible while the deficits mounted.

Three days before the election you promised to seek legislation to appoint the Postmaster General if you were elected. We believe that the pledge should be honored but we also believe the goal of political independence should be structured into the process as much as possible.

This is an extremely close question for us and the advice we have received has been mixed. Nonetheless, the Policy Staff believes that the Postmaster General appointment proposal in H.R. 7700 should be modified and supported. This is not a recommendation based upon a conclusion that Benjamin Bailar has not done a good job. We believe he has given the Service stability and, in general, has worked hard to hold down costs. Any Postmaster General must take tough and unpopular action in order to keep costs within a minimum acceptable level. This may include higher rates, closing post offices, curtailment of services.

The Policy Staff recommends that the Administration favor Presidential appointment of the Postmaster General for a fixed term of six years, subject to Senate confirmation. The Postal Service would not revert to a Cabinet Department but would remain independent. The fixed term would insulate the Service from political pressure and the Postmaster General would have the same relationship to you as your appointees to independent regulatory agencies like the FCC, the FPC, and the SEC. Presidential appointment of the PMG is favored by Representatives Hanley and Wilson and the unions. Senator Glenn defers to your judgment. The Postal

Service and the Study Commission oppose the proposal. OMB also opposes the Postmaster General appointment.

While we might possibly come to a different conclusion if we were writing on a clean slate, in light of the campaign promise and because we think that Presidential appointment would do little harm, we recommend such appointment. J. Edward Day, President Kennedy's Postmaster General, concurs that the Postmaster General should be appointed by the President for a fixed six-year term, subject to Senate confirmation. The Domestic Policy Staff does not believe Presidential appointment of the P.M.G. will bring any greater wrath from the public against the President for the problems of the Postal Service than now exists. The P.M.G. would be like the Presidentially appointed chairman of an independent regulatory agency.

An alternative approach would be to increase the number of Board members in order to exercise greater administration control. The Board presently serves primarily to select the P.M.G. and to approve his ongoing plans and programs. The Board has been severely criticized for its "failure" to oversee the policies and programs created by the management. It is frequently stated that should the President appoint the P.M.G., the Board would be superfluous and obsolete.

OMB and the Domestic Policy Staff both agree that if you do not wish to appoint the Postmaster General you should seek authority to name four additional persons to the Board to serve during your term of office. This would give every President some indirect control over the Postmaster General. Since there are currently two vacancies, it would give you the opportunity to appoint a majority of Governors. Again, the Domestic Policy Staff would only favor this option if you chose not to appoint the Postmaster General.

OMB believes the current Board, all of whom are Presidential appointees except for the P.M.G. and his Deputy, suffers not from a lack of breadth, but from a lack of quality. Your commitment to fill existing and new vacancies with strong, qualified appointees would demonstrate your interest in revitalizing the Board as a functioning arm of postal management. OMB believes that the Administration should support the concept of an independent Postal Service until such time as it is determined that the objectives of the Postal Reorganization Act cannot be achieved.

TAB A

Analysis of Fiscal Year 1976 Revenue Foregone Subsidy¹—By Class of Mail

(in millions)

Service Category	FY 1976 Total Income Identifiable by Class of Mail	Source of Income		Subsidy as a Percent of Total FY Income
		Postage Revenues	Revenue Foregone Subsidy ²	
First-class mail	\$ 6,734.0	\$ 6,734.0	none	none
Domestic airmail	83.5	83.5	none	none
Priority mail	410.9	410.0	none	none
Second-class mail:				
"A" Within-the-county (small newspapers)	47.3	11.4	\$ 35.9	75.8%
Outside-the-county:				
"B" Nonprofit publications	126.7	28.6	98.1	77.5%
Classroom publications	6.4	2.4	4.0	62.4%
"C" Regular-rate publications (Time, Newsweek)	398.9	215.2	183.7	46.0%
Fees	3.0	3.0	none	none
Transient mail	6.3	6.3	none	none
TOTAL SECOND-CLASS MAIL	\$ 588.6	\$ 266.9	\$321.7	54.6%
Controlled circulation publications	54.7	40.9	13.8	25.2%
Third-class mail:				
Single-piece rate	186.7	186.7	none	none
Bulk-rate—regular	1,206.8	1,206.8	none	none
"D" Bulk-rate—nonprofit	403.0	109.7	293.3	72.8%
Fees	18.7	18.7	none	none
TOTAL THIRD-CLASS MAIL	\$ 1,815.2	\$ 1,521.9	\$293.3	16.2%
Fourth-class mail:				
Parcels (zone rate)	476.8	476.8	none	none
Catalogs	31.1	31.1	none	none
"E" Special-rate matter (book & record clubs)	223.5	159.7	63.8	28.5%
Library materials	30.2	7.2	23.0	76.3%
Fees	4.8	4.8	none	none
TOTAL FOURTH-CLASS MAIL	\$ 766.4	\$ 679.6	\$ 86.8	11.3%
Federal Government				
(Franked and Penalty) mail	577.0	577.0	none	none
Free mail for the blind and handicapped	8.9	—	8.9	100.0%
International mail	447.3	447.3	none	none
TOTALS	\$11,486.5	\$10,762.0	\$724.5	6.3%

¹ Revenue Foregone is that revenue given up or "foregone" by the Postal Service as a result of providing mail service at a reduced rate. This revenue loss, which is the difference between the reduced rate and the otherwise applicable rate, is given to the Postal Service by an annual appropriation of Congress, as specified in the Postal Reorganization Act of 1970.

² In addition to revenue foregone subsidies that are phased over eight or sixteen years, the Congress authorized an additional, continuing subsidy for certain public-benefit mailings (e.g., by non-profit organizations). This continuing subsidy provides reimbursement for mandated free services and for those postal rates which must by statute be set at a reduced rate which only covers attributable costs and does not help defray the Postal Service's institutional costs. This is a significant additional subsidy in that attributable costs roughly cover only 59 percent of the Service's total costs.

TAB B

FOR IMMEDIATE RELEASE
OCTOBER 30, 1976

Saint Louis, Missouri, Governor Carter today released the following statement:

The Republican experiment in postal management is five years old. The American people are now paying higher rates for a lower grade of postal service than they did before Richard Nixon turned the Post Office into the United States Postal Service in 1971.

If I am elected President, I will take quick steps to make our Postal Service efficient and dependable once again.

1. To make the Postal Service publically accountable, I will support legislation to make the Postmaster General a Presidential appointee, subject to confirmation by the Senate.
2. I will require that the Board of Governors give more time and attention to the management of the Service, and I will appoint Governors who represent the broad interests of our people.
3. I will recommend the abolition of the Postal Rate Commission, which has 16 executives drawing top salaries but doing very little to earn them. The Commission has completed deliberations on only two rate cases in the last five years. The Board of Governors should take over the job of setting rates.
4. I will recommend the Postal Service begin a system of executive development. No organization as large and complex as the Postal Service can manage itself successfully over the long run without a careful system of recruiting and training its executives.
5. I will urge the Postal Service to develop a competent research and development staff to help avoid the costly lessons of trial-and-error management.
6. We will cooperate with the Study Commission recently created by Congress in recommending improvements in postal service.
7. I will fully support the moratorium, mandated by Congress, on rate increases and service reductions until the Study Commission has made its findings known.

Postal rates have risen by 63% in the last five years - twice as fast as the overall inflation rate. Even so, the Postal Service now loses \$250,000 every hour. By the end of this fiscal year it will have spent nearly \$12 billion more than it takes in, and the difference will be made up with our tax dollars.

As the rates have gone up, the quality of service has continued to decline. It now takes longer for an average letter to reach its destination than it did five years ago, and there is a greater chance that it will be misrouted or never reach its destination at all.

Nearly 1,500 small post offices have been closed down, denying rural families a center of community activity as well as a link with the outside world.

Local mail service has been allowed to deteriorate, and same-day service in downtown areas is a thing of the past. There are fewer collections from corner mail boxes, and the Postal Service is trying to rescind its door-to-door deliveries.

And all the while, the President has failed to act. He has ignored the mounting evidence that service is deteriorating. The Postmaster General has to call the White House six times before he could get an appointment to talk about the financial crisis in his office.

Over the last five years, the Postal Service has been a classic illustration of wasteful, imprudent, and inefficient management.

Large amounts of money have gone not to improve day-to-day service but for salaries and benefits for postal executives. The 167 top executives of the Service draw salaries ranging from \$37,000 to \$58,000. The Postmaster General and his assistants work in quarters which include a kitchen that cost \$44,000, carpeting that cost \$24,000 and a chandelier that cost \$3,000.

The Postal Service has made four basic management mistakes:

First, it offered large retirement bonuses to experienced officials of the old Post Office in hopes of thinning the ranks. Then it filled the top positions with people inexperienced in postal management, who soon brought on the mounting costs and deteriorating services we have seen since.

Second, it compounded the error by investing billions of dollars in equipment and installations without adequate foresight or preparation. Leading to a trial and error style of management.

Third, the Service has selected sites for postal facilities without appropriate evaluation leading to inefficient and some times senseless routings.

Fourth, the Service's procurement practices have smacked of favoritism and conflict of interest. For example, while Winton Blount was Postmaster General, he promoted a device called the Bulk Mail System. After he resigned from the Government, his family firm, Blount Brothers Corporation, received contracts for construction of four Bulk Mail centers, at a total cost of \$91-million.

The Bulk Mail System is now completed, but it does not work. It damages packages by the millions; at one time the Chicago facility alone reported more than 3.7-million packages which had been mangled or destroyed.

As the Postal Service has tried to mechanize, it has made one mistake after another. Government investigators report that the whole system is laden with superfluous gimmickry - machines too complicated for some tasks, yet not sophisticated enough to keep from damaging the mail.

The Multi-Position Letter Sorting Machine, for example, processes letters quickly; so quickly, in fact, that postal employees cannot keep up. As a result, an average of seven out of every one hundred letters go to the wrong place.

The Postal Service has fallen into a vicious cycle. As Postal rates rise, volume of mail falls. As volume decreases rates go up yet again. Before the recent United Parcel Service strike, more than half of all parcel post was handled by private carriers.

We must recognize that the Postal Service represents an essential public service for many people in our country. The ability to communicate through the mails must not only be sustained, but also improved.

This I pledge to do.

TAB C



THE POSTMASTER GENERAL • WASHINGTON, D.C. 20260

September 14, 1977

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

I know that you have had the opportunity to discuss postal issues with several individuals and groups since our meeting on June 8. Due to the brevity of that introductory meeting and the fact that your staff was still in the process of gathering data for your consideration, I did not think it appropriate to attempt a discussion of specific issues.

Now that you are nearing decisions on major postal issues, there are several points I would like to offer for your consideration.

You mentioned during our conversation that your campaign experience indicated the public felt there were too many postal employees and they were overpaid. Compared with 1970, we are delivering 6 billion (8%) more pieces of mail today with approximately 75,000 (11%) fewer employees. The reductions have come entirely through attrition since our employees enjoy a "no layoff" provision in their contract. This is a sharp reversal from previous practice when volume increases were matched with increases in the work force. For example, during the 1960's, volume increased 33% while the number of employees increased 32%.

For years postal employees were considered the stepchildren of the Federal pay scales. Now they have achieved pay comparability with the private sector and working conditions have been improved as specifically required by the Postal Reorganization Act. There is no

question that postal jobs are good jobs, offering the employee security and dignity. I feel that along with these benefits goes a responsibility for a high level of performance in service to the public. It has been my experience that the majority of postal employees take great pride in working in the Postal Service.

You also mentioned that the public felt that service has deteriorated. Our measurement systems, which have been audited by the General Accounting Office, indicate that we are meeting our delivery standards with greater consistency than at any time in our history. Frankly, while we do make errors that cause delays and anger people, much of the negative public perception of our service stems from comments of postal employee leaders who saw short-term fixes to quiet political unrest as more important than long-range planning or cutting the fat to operate within a budget and who see discrediting the current structure as hastening a return to the system where more attention was paid to influence than performance.

The A. C. Nielsen survey, about which I wrote to you on June 10, and other earlier and subsequent surveys indicate that the basic public opinion of the Postal Service is favorable, although I recognize that some do not agree with that assessment.

For the twelve month period ending in March, we operated in the black and we will finish this fiscal year with a loss of less than \$400 million compared to a FY'76 loss of \$1.2 billion. This improvement, in the face of the worst winter in the last century and a United Parcel Service strike, came about through the efforts of our managers at all levels to hold down costs while maintaining service and through the daily efforts of an outstanding work force.

In my judgment, one of the most significant contributions made by the Postal Reorganization Act is the enhancement of career opportunities within the Service. Prior to the Act, 80% of the employees retired or left the Service in the same job and level that they entered. Advancement on the basis of the merit is now a reality in the Postal Service. Since I became Postmaster General in early 1975, every appointment to an officer's position, including the Deputy Postmaster General, has come from the career ranks. I am convinced that the future ability of the Postal Service to perform efficiently is largely dependent on the senior management positions being held by experienced, able career employees. My principal concern with the issue of returning the system to the political process, even though an effort would be made to avoid the abuses

of the past, is the difficulty of recruiting top flight career people to fill the senior appointed positions serving at the pleasure of the Postmaster General when their tenure could depend on political change rather than their own performance.

One issue that underlies much of the present criticism of the Postal Service is the fact that we have not stood with the special interests, whether mailers or postal unions, in their continuous requests to the Congress for larger general subsidies for the Postal Service. Our position has been that the establishment of priorities for use of the Federal tax dollars is a question of national policy, properly reserved for the Administration and the Congress.

Two of the most persistent proponents of larger subsidies are the mailers of regular publications and nonprofit groups. Our latest actual figures show for FY'76 that in addition to the \$920 million public service subsidy, the taxpayers contributed in direct rate subsidy over 46% of the cost of handling publications and over 70% of the rate for the nonprofit mailers.

One of the basic tenets of the Postal Reorganization Act is that aside from certain specific subsidies, the user should pay for the cost of the service. Approximately 80% of mail volume is generated by businesses and 20% by individual citizens. Yet 72% of the Federal income tax revenues are paid by individuals. Thus when the responsibility for funding \$1.00 of postal cost is shifted from the postal ratepayer to the taxpayer the citizens who cause 20¢ of the cost pay 72¢, and the businesses which cause 80¢ of the cost pay 28¢. When postal costs are charged to postal users, the citizen can exercise a choice of whether or not to subscribe to a publication with the knowledge that all the costs including postage will be passed on to him. When postage costs are shifted to the taxpayer, the citizen has no choice.

In mid-October, we will begin to feel the impact of the Christmas mailing season. Our ability to handle the volume in a manner that will not disrupt the public's enjoyment of the holiday period requires a dedicated effort by the work force and effective management. Our present labor contract provides that formal negotiations begin no later than mid-April, 1978.

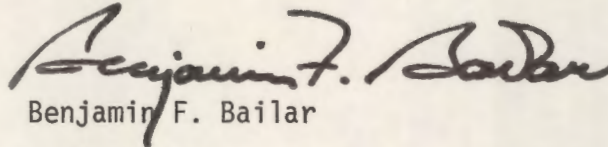
Because of the timing of your decisions on postal policy issues and the rapid approach of these events which pose potential problems

and in which the public has an important stake, I will, of course, be available to meet with you at your convenience if you think such a meeting would be useful.

I have learned from experience that postal problems are not generally surrounded by easy solutions so I have some appreciation for the difficulties you face in determining which answers best serve the public in this area of your responsibility. I share your concerns about the Federal budget and that government agencies should be managed efficiently for the benefit of the American people. I believe the basic structure of the Postal Service is well suited to meet those ends, and to strike an appropriate balance among the interest of the public, the mail users and postal employees, but this is obviously a subject on which reasonable men can differ.

You have my assurance that each of us in the management team here will do everything in our power to see that the Postal Service continues to be run in a responsible manner.

Respectfully,


Benjamin F. Bailar

cc: Honorable Stuart E. Eizenstat

<u> </u> ✓	Approved	Presidential appointment of the Postmaster General for a fixed six-year term, subject to Senate confirmation (Domestic Policy Staff Recommendation)
<u> </u>	Approved	Increase the number of Board members by four and specify that their term of office would run concurrently with the term of the President (OMB Recommendation) (Domestic Policy Staff Alternative Recommendation)
<u> </u>	Disapproved	Continue current practice of having postal governors appoint the Postmaster General
<u> </u>	Comment	

Conclusion

The Postal Service is generally thought to be mismanaged but we have not found that to be the case to the degree alleged. Expenses have been kept in line with normal inflationary growth. Postal workers were deemed by Congress to be underpaid in 1969. They now are considered the highest paid "Federal" workers. The complaints of most large mailers regarding "excessive" rates are reflective of the erosion of their substantial subsidies and do not reflect mismanagement by the Postal Service. Nonetheless, we doubt our ability to convince the American people that the Administration is concerned about the Postal Service unless it is clear that the Postmaster General and the United States Postal Service have your support.

A letter to you from the Postmaster General on H.R. 7700 was received late yesterday and is attached at Tab "C".

THE WHITE HOUSE
WASHINGTON

Long Hearing 9/8
1/29/77
Malison

Date: September 2, 1977

MEMORANDUM

FOR ACTION:

Stu Eizenstat
Frank Moore *attached*
Jack Watson *no by phone*
Jim King - *attached*

FOR INFORMATION:

The Vice President
Hamilton Jordan *ac*
Bob Lipshutz
Jody Powell
Charlie Schultze

IP w/ Malison
exp 4H
2 PM Mon

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Lance memo dated 9/1/77 re Administration Postal Policy
and H.R. 7700, Postal Reform Legislation

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 10:00 A.M.

DAY: Tuesday *mon*

DATE: September 6, 1977

hearings postponed

9/5 Postponed again

*9/5 Personnel Dept
will comment on
Stu's memo.
B*

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

September 1, 1977

ACTION

MEMORANDUM FOR: THE PRESIDENT
FROM: Bert Lance *Jim McIntyre, for*
SUBJECT: Administration Postal Policy and H.R. 7700, Postal Reform Legislation

The House Subcommittees with jurisdiction over postal matters have requested that the Administration present its views on H.R. 7700, pending postal reform legislation. A hearing has been scheduled for September 8, 1977, and either Bert Lance or another Administration spokesman will testify at that time. This testimony will be the first formal statement by the Administration on postal matters. This memorandum briefly discusses the key provisions of H.R. 7700 and seeks your guidance on the major policy questions raised by this legislation.

H.R. 7700

The legislation, co-sponsored by Congressman Hanley (D-N.Y.) and Congressman Wilson (D-Calif.), would amend the Postal Reorganization Act of 1970, which established the quasi-independent U.S. Postal Service. The general thrust of the proposed amendments would be to reduce the level of that independence and provide for increased Federal subsidization of postal operations. Of the several postal reform bills that have been introduced, H.R. 7700 probably stands the greatest chance of being voted on by the full House. There is little indication, however, of any momentum building in the Senate--although Senator Hollings (D-S.C.) and Senator Randolph (D-W. Va.) have in the past supported enactment of similar legislation. The reforms proposed in H.R. 7700 have strong and unified support from the five postal labor unions.

The major policy issues raised in H.R. 7700 are as follows:

Responsibility for Postal Management - H.R. 7700 would provide for Presidential appointment of both the Postmaster General and his deputy and would abolish the existing 11 member Postal Board of Governors--nine of which are Presidentially appointed, the 10th and 11th being the Postmaster General and his deputy. This change would establish a line of direct responsibility between the President and the Postmaster General and in theory would give the Administration greater control over postal management decisions and operations. We believe, however, that there is little to be gained by your making these appointments. Efficiencies in

postal operations and improvements in the postal system are best brought about by an independent management charged with the responsibility for balancing costs with revenues. This proposed change could weaken that responsibility and unnecessarily shift the burden for many internal postal policy decisions to the Administration. Short of returning to full Executive Branch control of the Postal Service--which we would not advocate--we believe that the operational and financial problems of the Service are best dealt with in the present structural setting.

Support change



Do not support (recommended)



Federal Subsidies - H.R. 7700 would provide for annual Federal public service subsidies to the Postal Service at a level equal to 15 percent of the Service's prior year operating costs. The current subsidy provided is \$920 million annually. The proposed amendment would add up to \$1.7 billion to current fiscal year 1979 budget estimates. Advocates of increased subsidies point out that they will help balance the Postal Service's books and hold down the necessity for future rate increases. We do not believe that this increase in subsidies is necessary or desirable. The postal operating deficit which has been sizable in recent years is declining and postal management is forecasting a balanced budget by 1979. Although additional subsidies may have the effect of holding off future rate increases, such an approach runs contrary to the concept of having postal costs paid for by the user and not the taxpayer. Furthermore, increasing the subsidy level as expenditures rise provides little or no incentive for postal management to reduce costs. For these reasons we believe this proposed change should be strongly opposed.

Support change



Do not support (recommended)



Postal Rate Setting Process - H.R. 7700 also includes a number of proposed changes in the rate setting area. One of the changes which we believe would result in a more independent rate process would make the Postal Rate Commission subject to the annual appropriations process rather than being funded out of postal revenues, as is the current practice. Another proposed change would, however, compromise that very independence by allowing the Congress, by concurrent resolution to veto, as a whole, any Commission decision. We believe the current rate process has sufficient safeguards to protect the public interest and believe that this latter proposed change should be opposed.

Support change



Do not support (recommended)



Date: September 2, 1977

MEMORANDUM

FOR ACTION:

Stu Eizenstat
Frank Moore
Jack Watson

FOR INFORMATION:

The Vice President
Hamilton Jordan
Bob Lipshutz
Jody Powell
Charlie Schultze

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Lance memo dated 9/1/77 re Administration Postal Policy
and H.R. 7700, Postal Reform Legislation

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 10:00 A.M.

DAY: Tuesday

DATE: September 6, 1977

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.☒ No comment.*Please note other comments below:*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

September 1, 1977

ACTION

MEMORANDUM FOR: THE PRESIDENT
FROM: Bert Lance *Jim McIntyre, for*
SUBJECT: Administration Postal Policy and H.R. 7700, Postal Reform Legislation

The House Subcommittees with jurisdiction over postal matters have requested that the Administration present its views on H.R. 7700, pending postal reform legislation. A hearing has been scheduled for September 8, 1977, and either Bert Lance or another Administration spokesman will testify at that time. This testimony will be the first formal statement by the Administration on postal matters. This memorandum briefly discusses the key provisions of H.R. 7700 and seeks your guidance on the major policy questions raised by this legislation.

H.R. 7700

The legislation, co-sponsored by Congressman Hanley (D-N.Y.) and Congressman Wilson (D-Calif.), would amend the Postal Reorganization Act of 1970, which established the quasi-independent U.S. Postal Service. The general thrust of the proposed amendments would be to reduce the level of that independence and provide for increased Federal subsidization of postal operations. Of the several postal reform bills that have been introduced, H.R. 7700 probably stands the greatest chance of being voted on by the full House. There is little indication, however, of any momentum building in the Senate--although Senator Hollings (D-S.C.) and Senator Randolph (D-W. Va.) have in the past supported enactment of similar legislation. The reforms proposed in H.R. 7700 have strong and unified support from the five postal labor unions.

The major policy issues raised in H.R. 7700 are as follows:

Responsibility for Postal Management - H.R. 7700 would provide for Presidential appointment of both the Postmaster General and his deputy and would abolish the existing 11 member Postal Board of Governors--nine of which are Presidentially appointed, the 10th and 11th being the Postmaster General and his deputy. This change would establish a line of direct responsibility between the President and the Postmaster General and in theory would give the Administration greater control over postal management decisions and operations. We believe, however, that there is little to be gained by your making these appointments. Efficiencies in

postal operations and improvements in the postal system are best brought about by an independent management charged with the responsibility for balancing costs with revenues. This proposed change could weaken that responsibility and unnecessarily shift the burden for many internal postal policy decisions to the Administration. Short of returning to full Executive Branch control of the Postal Service--which we would not advocate--we believe that the operational and financial problems of the Service are best dealt with in the present structural setting.

Support change



Do not support (recommended)



Federal Subsidies - H.R. 7700 would provide for annual Federal public service subsidies to the Postal Service at a level equal to 15 percent of the Service's prior year operating costs. The current subsidy provided is \$920 million annually. The proposed amendment would add up to \$1.7 billion to current fiscal year 1979 budget estimates. Advocates of increased subsidies point out that they will help balance the Postal Service's books and hold down the necessity for future rate increases. We do not believe that this increase in subsidies is necessary or desirable. The postal operating deficit which has been sizable in recent years is declining and postal management is forecasting a balanced budget by 1979. Although additional subsidies may have the effect of holding off future rate increases, such an approach runs contrary to the concept of having postal costs paid for by the user and not the taxpayer. Furthermore, increasing the subsidy level as expenditures rise provides little or no incentive for postal management to reduce costs. For these reasons we believe this proposed change should be strongly opposed.

Support change



Do not support (recommended)



Postal Rate Setting Process - H.R. 7700 also includes a number of proposed changes in the rate setting area. One of the changes which we believe would result in a more independent rate process would make the Postal Rate Commission subject to the annual appropriations process rather than being funded out of postal revenues, as is the current practice. Another proposed change would, however, compromise that very independence by allowing the Congress, by concurrent resolution to veto, as a whole, any Commission decision. We believe the current rate process has sufficient safeguards to protect the public interest and believe that this latter proposed change should be opposed.

Support change



Do not support (recommended)



THE WHITE HOUSE

WASHINGTON

September 15, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: JAMES F. GAMMILL, JR. *JG*

SUBJECT: POSTAL POLICY

We have been asked to comment on the proposed changes in the appointment of the Postmaster General and the Postal Service's Board of Governors.

Postmaster General

We recommend that you appoint the Postmaster General with Senate confirmation to serve at your pleasure, rather than for a fixed term. If the purpose of removing the appointment power from the Board of Governors is to give you greater control over postal policy, that purpose is defeated by a fixed term appointment. The Postmaster General will not have to be any more responsive to you than he is now; and, you, nevertheless, will be held directly responsible for postal policy and management.

Board of Governors

We disagree with the Domestic Council's recommendations to increase the size of the Board of Governors from eleven members to fifteen. Even assuming that the Cabinet officers would be able to spend the requisite time to contribute meaningfully to the deliberations of the Board, a fifteen member board would be unwieldy at best. Many of the existing dissatisfactions with the Board of Governors can be remedied by shortening

their terms from nine years to five. The shorter term would still give the Governors independence and would allow you greater control over the composition of the Board.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 6, 1977

TO: RICK HUTCHESON

FROM: LES FRANCIS *LF*

SUBJECT: Postal Reform Action Memo
dated September 2, 1977

House Liaison: Bill Cable's views are as follows:

The House will almost certainly pass legislation which will increase Presidential control over the Postal Service. It is a hot political issue in the House in that the Postal Service is regarded as inefficient and non-accountable. Reasserting political accountability is viewed as a major step toward improvement. Administration opposition to the notion will be futile.

Bill was less definite about the fate of increased subsidies and changes in the postal rate setting processes, although he thinks there is substantial support in the House for these measures as well.

Senate Liaison: Because of travel schedules of key Senate contacts, no comments were provided.

Les Francis' Comments: In addition to the above, I believe it is important to note that five postal unions strongly support HR 7700. Our opposition to its major provisions would have negative consequences.

The quality of postal service is of great concern to Members of Congress because it is a subject which generates a great deal of constituent pressure. Proposals for postal rate increases, elimination of six-day delivery and door-to-door delivery, and other "economy moves" meet with strong opposition among individuals and groups. That opposition is almost always channeled through Congressional offices. To make matters worse, as these changes are discussed, constituents compare horror stories about how long it takes to get a letter across town. Thus the argument put forth by OMB that "efficiencies in postal operations and improvements in the postal system are best brought about by an independent management..." will fall on deaf Congressional ears.

Finally, another concept which will be fought on the Hill is the belief that the Postal Service should be paid for by the user rather than the taxpayer. While some particular examples of this will receive widespread support, a general statement to this effect will not. There is a substantial number -- in the House at least -- that believes the Postal Service is just that -- a service. Therefore, it should not be expected to be totally self-sufficient. Because timely written communication is a basic ingredient to our society, government should underwrite its existence, etc.